

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1744

**Introduced by Committee on Revenue and Taxation (Chavez
(Chair), Laird, Leno, and Simitian)**

March 11, 2003

An act to amend Section 15606 of the Government Code, and to amend Sections ~~271~~ 271, 441, and 442 of the Revenue and Taxation Code, relating to property tax.

LEGISLATIVE COUNSEL'S DIGEST

AB 1744, as amended, Committee on Revenue and Taxation. Property taxes.

The State Board of Equalization, as a part of its administrative functions, is authorized to prescribe rules and regulations to be followed by assessors and local boards of equalization and to prepare and prescribe forms and instructions to be used by local assessors for classification and valuation of property.

This bill would require the State Board of Equalization, as part of its rulemaking process, to prepare and publish an estimate of the fiscal impact of any rule, regulation, form, or instruction proposed by the State Board of Equalization.

Existing property tax law allows taxes, penalties, and interest imposed for delinquent filings of property tax exemption applications to be reduced in the case of an exemption of a college, cemetery, church, religion, exhibition, or veterans' organization that acquires new property or is organized after the lien date, if an application for

exemption is filed on or before the lien date in the calendar year next succeeding the calendar year in which the property was acquired.

This bill would allow these taxes, penalties, and interest to be reduced pursuant to these provisions only if the entity files an exemption application within 90 days from the first day of the next month following the date on which the property was acquired.

Existing property law requires each person owning taxable personal property with an aggregate cost of \$100,000 or more to file a signed property statement with the county assessor. Existing law requires every person, upon request of the county assessor, to make available for examination information or records regarding personal property located on the premises owned or controlled by that person.

This bill would extend the requirement to make available for examination by the county assessor information or records regarding personal property that becomes part of new construction performed by an owner-builder or owner-developer, if that new construction is sold to a third party, is constructed on behalf of a third party, or is constructed for the purpose of selling that property to a third party.

Existing property tax law requires the owners of specified property interests, including property that is the subject of a lease, to file a property statement with the county assessor listing all property interests held by that owner. Existing law does not require property leased under a conditional sales agreement, an agreement that allows the lessee the option to purchase the leased property for a nominal price at the end of the term of the lease, to be included in the lessor's property statement.

This bill would require the lessor of property that is leased under a conditional sales agreement to list that leased property on the lessor's property statement.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 15606 of the Government Code is
- 2 amended to read:
- 3 15606. The State Board of Equalization shall do all of the
- 4 following:
- 5 (a) Prescribe rules for its own government and for the
- 6 transaction of its business.
- 7 (b) Keep a record of all its proceedings.

1 (c) Prescribe rules and regulations to govern local boards of
2 equalization when equalizing, and assessors when assessing,
3 including uniform procedures for the consideration and adoption
4 of written findings of fact by local boards of equalization as
5 required by Section 1611.5 of the Revenue and Taxation Code.

6 (d) Prescribe and enforce the use of all forms for the assessment
7 of property for taxation, including forms to be used for the
8 application for reduction in assessment.

9 (e) Prepare and issue instructions to assessors designed to
10 promote uniformity throughout the state and its local taxing
11 jurisdictions in the assessment of property for the purposes of
12 taxation. It may adapt the instructions to varying local
13 circumstances and to differences in the character and conditions of
14 property subject to taxation as in its judgment is necessary to attain
15 this uniformity.

16 (f) Subdivisions (c), (d) and (e) shall include, but are not
17 limited to, rules, regulations, instructions, and forms relating to
18 classifications of kinds of property and evaluation procedures.

19 (g) Prescribe rules and regulations to govern local boards of
20 equalization when equalizing and assessors when assessing with
21 respect to the assessment and equalization of possessory interests.

22 (h) Bring an action in a court of competent jurisdiction to
23 compel an assessor or any city or county tax official to comply with
24 any provision of law, or any rule or regulation of the board adopted
25 in accordance with subdivision (c), governing the assessment or
26 taxation of property. The Attorney General shall represent the
27 board in the action.

28 (i) The board shall prepare and publish an estimate of the fiscal
29 impact of any proposed rule, regulation, form, or instruction that
30 the board is authorized to prescribe, enforce, or issue pursuant to
31 subdivision (c), (d), (e), or (g).

32 (j) This section is mandatory.

33 SEC. 2. Section 271 of the Revenue and Taxation Code is
34 amended to read:

35 271. (a) Provided that an appropriate application for
36 exemption is filed within 90 days from the first day of the month
37 following the month in which the property was ~~acquired~~, *acquired*
38 *or by February 15 of the following calendar year, whichever*
39 *occurs earlier*, any tax or penalty or interest imposed upon:

1 (1) Property owned by any organization qualified for the
2 college, cemetery, church, religious, exhibition, veterans'
3 organization, tribal housing, or welfare exemption that is acquired
4 by that organization during a given calendar year, after the lien
5 date but prior to the first day of the fiscal year commencing within
6 that calendar year, when the property is of a kind that would have
7 been qualified for the college, cemetery, church, religious,
8 exhibition, veterans' organization, tribal housing, or welfare
9 exemption if it had been owned by the organization on the lien
10 date, shall be canceled or refunded.

11 (2) Property owned by any organization that would have
12 qualified for the college, cemetery, church, religious, exhibition,
13 veterans' organization, tribal housing, or welfare exemption had
14 the organization been in existence on the lien date, that was
15 acquired by it during that calendar year after the lien date in that
16 year but prior to the commencement of that fiscal year, and of a
17 kind that presently qualifies for the exemption and that would have
18 so qualified for that fiscal year had it been owned by the
19 organization on the lien date and had the organization been in
20 existence on the lien date, shall be canceled or refunded.

21 (3) Property acquired after the beginning of any fiscal year by
22 an organization qualified for the college, cemetery, church,
23 religious, exhibition, veterans' organization, tribal housing, or
24 welfare exemption and the property is of a kind that would have
25 qualified for an exemption if it had been owned by the organization
26 on the lien date, whether or not that organization was in existence
27 on the lien date, shall be canceled or refunded in the proportion that
28 the number of days for which the property was so qualified during
29 the fiscal year bears to 365.

30 (b) Eighty-five percent of any tax or penalty or interest thereon
31 imposed upon property that would be entitled to relief under
32 subdivision (a) or Section 214.01, except that an appropriate
33 application for exemption was not filed within the time required
34 by the applicable provision, shall be canceled or refunded
35 provided that an appropriate application for exemption is filed
36 after the last day on which relief could be granted under
37 subdivision (a) or Section 214.01.

38 (c) Notwithstanding subdivision (b), any tax or penalty or
39 interest thereon exceeding two hundred fifty dollars (\$250) in total
40 amount shall be canceled or refunded provided it is imposed upon

property entitled to relief under subdivision (b) for which an appropriate claim for exemption has been filed.

(d) With respect to property acquired after the beginning of the fiscal year for which relief is sought, subdivisions (b) and (c) shall apply only to that pro rata portion of any tax or penalty or interest thereon that would have been canceled or refunded had the property qualified for relief under paragraph (3) of subdivision (a).

SEC. 3. *Section 441 of the Revenue and Taxation Code is amended to read:*

441. (a) Each person owning taxable personal property, other than a manufactured home subject to Part 13 (commencing with Section 5800), having an aggregate cost of one hundred thousand dollars (\$100,000) or more for any assessment year shall file a signed property statement with the assessor. Every person owning personal property that does not require the filing of a property statement or real property shall, upon request of the assessor, file a signed property statement. Failure of the assessor to request or secure the property statement does not render any assessment invalid.

(b) The property statement shall be declared to be true under the penalty of perjury and filed annually with the assessor between the lien date and 5 p.m. on April 1. The penalty provided by Section 463 applies for property statements not filed by May 7. If May 7 falls on a Saturday, Sunday, or legal holiday, a property statement that is mailed and postmarked on the next business day shall be deemed to have been filed between the lien date and 5 p.m. on May 7. If, on the dates specified in this subdivision, the county's offices are closed for the entire day, that day is considered a legal holiday for purposes of this section.

(c) The property statement may be filed with the assessor through the United States mail, properly addressed with postage prepaid. For purposes of determining the date upon which the property statement is deemed filed with the assessor, the date of postmark as affixed by the United States Postal Service, or the date certified by a bona fide private courier service on the envelope containing the application, shall control. This subdivision shall be applicable to every taxing agency, including, but not limited to, a chartered city and county, or chartered city.

(d) (1) At any time, as required by the assessor for assessment purposes, every person shall make available for examination

1 information or records regarding his or her property or any other
2 personal property located on premises he or she owns or controls.
3 In this connection details of property acquisition transactions,
4 construction and development costs, rental income, and other data
5 relevant to the determination of an estimate of value are to be
6 considered as information essential to the proper discharge of the
7 assessor's duties.

8 (2) (A) *This subdivision shall also apply to an owner-builder*
9 *or an owner-developer of new construction that is sold to a third*
10 *party, is constructed on behalf of a third party, or is constructed for*
11 *the purpose of selling that property to a third party.*

12 (B) *The owner-builder or owner-developer of new construction*
13 *described in subparagraph (A), shall, within 45 days of receipt of*
14 *a written request by the assessor for information or records,*
15 *provide the assessor with all information and records regarding*
16 *that property. The information and records provided to the*
17 *assessor shall include the total consideration provided by the*
18 *purchaser or on behalf of the purchaser that was paid or provided*
19 *either, as part of or outside of the purchase agreement, including,*
20 *but not limited to, consideration paid or provided for the purchase*
21 *or acquisition of upgrades, additions, or any other additional or*
22 *supplemental work performed or arranged for by the*
23 *owner-builder or owner-developer on behalf of the purchaser.*

24 (e) In the case of a corporate owner of property, the property
25 statement shall be signed either by an officer of the corporation or
26 an employee or agent who has been designated in writing by the
27 board of directors to sign the statements on behalf of the
28 corporation.

29 (f) In the case of property owned by a bank or other financial
30 institution and leased to an entity other than a bank or other
31 financial institution, the property statement shall be submitted by
32 the owner bank or other financial institution.

33 (g) The assessor may refuse to accept any property statement
34 he or she determines to be in error.

35 (h) If a taxpayer fails to provide information to the assessor
36 pursuant to subdivision (d) and introduces any requested materials
37 or information at any assessment appeals board hearing, the
38 assessor may request and shall be granted a continuance for a
39 reasonable period of time. The continuance shall extend the

1 two-year period specified in subdivision (c) of Section 1604 for a
2 period of time equal to the period of the continuance.

3 (i) Notwithstanding any other provision of law, every person
4 required to file a property statement pursuant to this section shall
5 be permitted to amend that property statement until May 31 of the
6 year in which the property statement is due, for errors and
7 omissions not the result of willful intent to erroneously report. The
8 penalty authorized by Section 463 ~~shall~~ *does* not apply to an
9 amended statement received prior to May 31, provided the original
10 statement is not subject to penalty pursuant to subdivision (b). The
11 amended property statement shall otherwise conform to the
12 requirements of a property statement as provided in this article.

13 (j) This subdivision shall apply to the oil, gas, and mineral
14 extraction industry only. Any information that is necessary to file
15 a true, correct, and complete statement shall be made available by
16 the assessor, upon request, to the taxpayer by mail or at the office
17 of the assessor by February 28. For each business day beyond
18 February 28 that the information is unavailable, the filing deadline
19 in subdivision (b) shall be extended in that county by one business
20 day, for those statements affected by the delay. In no case shall the
21 filing deadline be extended beyond June 1 or the first business day
22 thereafter.

23 (k) The assessor may accept the filing of a property statement
24 by the use of electronic media. In lieu of the signature required by
25 subdivision (a) and the declaration under penalty of perjury
26 required by subdivision (b), property statements filed using
27 electronic media shall be authenticated pursuant to methods
28 specified by the assessor and approved by the board. Electronic
29 media includes, but is not limited to, computer modem, magnetic
30 media, optical disk, and facsimile machine.

31 *SEC. 4.* Section 442 of the Revenue and Taxation Code is
32 amended to read:

33 442. (a) The property statement shall show all taxable
34 property owned, claimed, possessed, controlled, or managed by
35 the person filing it and required to be reported thereon.

36 Every person owning, claiming, possessing, controlling or
37 managing property shall furnish any required information or
38 records to the assessor for examination at any time.

39 (b) The requirements of this article shall be satisfied with
40 respect to property belonging to others for which the declarer has

1 contractual property tax obligations if the declarer includes that
2 property in the property statement, submits the statement timely,
3 and includes in the statement all information required in the
4 statement pertaining to property belonging to others.

5 (c) Property that is the subject of a contract designated as a lease
6 that provides that the lessee has the option of acquiring the
7 property at the end of the lease term for one dollar (\$1), or any
8 other nominal consideration shall be reported by the lessor on the
9 lessor's property statement. If that property qualifies for the
10 property tax exemption provided for by subdivision (d) or (e) of
11 Section 3 of Article XIII of the California Constitution, that
12 property shall be regarded as owned by the lessee and is not
13 required to be shown on any property statement of the lessor.

